RAJYA SABHA

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Tuesday, the 23rd July, 2002/1 *Sravana* 1924 (Sa/ca)

The House met at eleven of the clock,

MR. CHAIRMAN in the Chair.

ORAL ANSWERS TO QUESTIONS

Diversion of Loans by Essar Group

*121. SHRI AMAR SINGH: Will the Minister of FINANCE AND COMPANY AFFAIRS be pleased to state:

(a) whether Government's attention has been drawn to the newsitem which appeared in the Asian Age dated 2nd July, 2002, under the heading 'Ruias hived off units to get double financing';

(b) if so, what are the details thereof including the amount of loan received by Essar Group from the Financial Institution which had been diverted to its subsidiary; and

(c) what is Government's reaction thereto?

THE MINISTER OF FINANCE AND COMPANY AFFARIS (SHRI JASWANT SINGH): (a) to (c) A Statement is placed on the Table of the House.

Statement

(a) Yes, Sir.

(b) According to the information provided by the concerned Financial Institutions, namely, Industrial Development Bank of India (IDBI), former - dustnal Credit & Investment Corporation of India Ltd. (ICICI), Industrial : mance Corporation of India Ltd. (IFCI), Life Insurance Corporation of India (LIC), General Insurance Corporation (GIC), Unit Trust of India (UTI), Export Import Bank of India (EXIM BANK) and Industrial Investment Bank of India (IIBI), financial assistance has been extended to the Essar Group of Companies for specific projects, after due appraisal and they had not made double financing to the assisted projects of the Group. In accordance with the practice and usages customary amongst the banks, and in conformity with the provisions of statutes groveming the financial institutions, as also provisions of The Public Financial Institutions (Obligation As To Fidelity and Secrecy) Act, 1983, information in respect of the constituents of the Public Financial Institutions cannot be divulged.

(c) Decisions for extending financial assistance, restructuring of loans or related aspects/issues are taken by the concerned financial institutions, based on their own assessment and commercial judgment of the proposals.

श्री अमर सिंह: आदरणीय सभापति महोदय,मैं माननीय वित्त मंत्री जी और उनकी सरकार की निष्पक्षता का बड़ा कायल हूं। मुझे विश्वास है कि आप बहुत निष्पक्षता तरीके से देश का वित्त मंत्रालय संभालेंगे और इससे पहले आप विदेश मंत्रालय चला रहे थे। मैं आपके संज्ञान में यह बात लाना चाहता हूं कि हमारे लोकसभा के एक सांसद की सूचनाओं के आधार पर देश की एक बड़ी औद्योगिक कंपनी रिलायंस के एकाउंट्स की जाचं सैक्शन 209 (ए) के तहत हुई। यह स्वागत योग्य है कि आपने एक सांसद की सूचनाओं के आधार पर रिलायंस जैसे बड़े उद्योगो समूह को भी नहीं छोड़ा और सैक्शन 209 (ए) के तहत आपने उनके एकाउंट्स की जांच कराई। सीक्रेसी अधिनियम की आड़ लेकर आप कहते हैं कि सीक्रेसी है, ऐसा आधिनियम है, इसलिए इस बारे में नहीं बताया जा सकता। ठीक है, सीक्रेसी है, आप न बतायें लेकिन जिस तरह से वह जांच आपने कराई है , इसी तरह से इस कंपनी के पूरे एकाउंट्स की जांच आप कंपनी अफेयर्स के सैक्शन 209 (ए) के तहत करवांए ताकि सच्चे का बोलबोला और झूठे का मुंह काला हो सके और दूध का दूध और पानी का पानी हो जाएगा। मुझे मंत्री जी की निष्पक्षता का पूरा विश्वास है। मुझे उम्मीद है कि आप अपनी सरकार की पुरानी पंरपरा के अनुसार इस कंपनी के एकाउंट्स की जांच सैक्शन 209(ए) के तहत कराने का कष्ट करेंगे। क्या आप यह आश्वासन इस सदन को देना चाहेगे ?

श्री जसंवत सिंह: सभापति महोदय, वैसे यह मुद्दा आज के मूल प्रश्न से जुड़ा हुआ नहीं हैं । माननीय सदस्य ने कहा है कि किसी अन्य ग्रुप की जांच सैक्शन 209(ए) के तहत की गई थी । मुझे याद नहीं आ रहा है कि वह जांच किस संदर्भ में हुई थी या किन शिकायतों के आधार पर उस जांच के आदेश दिए गए थे। मुझे वास्तव मे उस केस की जानकारी नहीं है । लेकिन माननीय सदस्य ने जिस ग्रुप के एकाउंट्स के बारे में प्रश्न पूछा है यदि उनमें कुछ कमियां है जिनके कारण कंपनी अफेयर्स द्वारा उसी प्रकार की जांच जैसी सैक्शन 209 (ए) कहता है, होनी चाहिए तो हम निशिचत रुप से उसकी जांच कराएंगे। हम देखेंगे कि क्या सैक्शन 209 (ए) के तहत कोई जांच का विषय बनता है या नहीं, अगर बनता है तो आप आश्वस्त रहिए, हमें जांच कराने में कोई कठिनाई नहीं होगी।

श्री अमर सिंह: सभापति महोदय, वित्त मंत्री जी ने उत्तर दिया है कि इसमें डाईवर्शन ऑफ फंड नहीं है। मेरे पास एक सूची है जिसके मुताबिक ऐसी 50 कंपनियां है Essar Browns Root India Ltd, Essar Forasal India Ltd., Essar Bhavan and Revt. Ltd., Essar SIT (India) Ltd., Essar Oil Ltd. और सबका कोड और आई0टी0ओ0 वार्ड औरजो इनकम टैक्स ऑफिसर इन 50 कपंनियों को देख रहे हैं और जहां से फंड़ गोल-गोल घूमा है, उसकी

पूरी सूचना मेरे पास है, पूरा विवरण मेरे पास है मैं इसे पढ़कर सदन का समय नष्ट नहीं करना चाहता, मैं आपको यह सूचना दे सकता हूं, आपके पास भिजवा सकता हूं । मेरी आपसे एक छोटी सी विनती है कि इन 50 कंपनियों के जो 50 आई0 टी0 ओ0 वार्ड हैं और जो 50 इनकम टैक्स ऑफिसर्स इनको देख रहे हैं, क्या आप इनका एक इनकम टैक्स सैल बना देंगे? अगर एक इनकम टैक्स सैल इस पूरे समूह के लिए बन जाएगा तो एकदम पता चल जाएगा कि डाईवर्जन ऑफ फंड हो रहा है या नहीं । ऐसी अवधारणा है कि 11,000 करोड़ रुपया इस ग्रुप ने लिया है। महोदय, देश की जो सबसे बड़ी क्रेडिट एजेंसी है CRISIL, उसने इस ग्रुप को डिफॉल्ट कैटेगरी मे डाला है। तो ये जो 50 कंपनियां बनी हुई हैं, जिनके 50 इनकम टैक्स वार्ड हैं , 50 इनकम टैक्स ऑफिसर्स हैं इनको समन्वित करके, इनको समाहित करके क्या आप एक इनकम टैक्स सैल बनाएंगे? यह आपके हाथ की बात है। आप सदन को आश्वस्त करें कि आप इनके लिए एक इनकम टैक्स सैल बना देंगे जिसमें इन 50 कपंनियों को समाहित कर दिया जाएगा।

श्री जसवंत सिंहः सभापति महोदय, माननीय सदस्य ने जो प्रश्न पूछे हैं, मोटे रुप से उनके दो पहलू हैं। एक तो माननीय सदस्य का कहना है कि करीब 50 कम्पनियां इस ग्रुप की हैं तथा भिन्न-भिन्न स्थानों पर उनका असेसमेंट हो रहा है और अलग-अलग उनके इनकम टैक्स ऑफिसर है, क्या इन सभी को एक ही जगह एक ही इनकम टैक्स ऑफिसर के तहत लगाया जा सकता है? मैं आश्वासन नहीं देना चाहता जब तक इसकी जांच न करा लूं, क्योंकि जहां तक इनकम टैक्स असेसमेंट का प्रश्न है,साधारणतया जहां कम्पनी रजिस्टर्ड है और जहां कम्पनी का कारोबार है साधारणतया वहीं असेसमेंट होता है। कोई विशेष परिस्थिति ऐसी आए जिसके कारण किसी अन्य स्थान पर असेसमेंट होना चाहिए, वह भी होता है। माननीय सदस्य का यह सुझाव है कि इन पचासों की एक ही स्थान पर एक ही अधिकारी द्वारा जांच कराई जाए या असेसमेंट कराया जाए, हम इस पर विचार करेंगे कि इसके पीछे क्या कारण हैं? यदि माननीय सदस्य मुझे लिखित रुप मे भिजवाने का कष्ट करें तो हमको उसमें सहूलियत होगी। एक दूसरा पहलू है । आपने कहा कि कोई 11 हजार करोड़ रुपया इस कम्पनी के ग्रुप ने ऋण लिया है। हमारे पास जो आंकड़ा है, यह उससे मेल नहीं खाता है। मैं माननीय सदस्य को सूचित कर दूं कि जहां तक मेरी सूचना है, उसके अनुसार और यह जांच कराने के बाद मैं आपसे निवेदन कर रहा हूं, करीब 7300 करोड़ रुपए के आसपास का जो फिगर है, वह इस कम्पनी ग्रुप का ऋण है 11 हजार करोड़ नहीं है।

श्री अमर सिंह: माननीय वित्त मंत्री जी, यह 50 कम्पनियां मुम्बई में एक ही स्थान पर हैं। ये जगह-जगह पर नहीं हैं। एक ही स्थान पर एक ही पते है पर 50 कम्पनियां हैं ।

श्री जसवंत सिंह: माननीय सदस्य के पास कोई ऐसा विषय इन 50 कम्पनियों के बारे में है या आपके ज्ञान में कोई ऐसा कारण है जिसके फ्लस्वरुप इनकी एक ही स्थान पर एक ही इनकम टैक्स ऑफिसर द्वारा जांच होनी चाहिए । आप निश्चित रुप से हमें लिखिए और आप आश्वसत रहिए

कि हमे उसकी जांच कराने मे कोई दिक्कत नहीं है। उसके बाद अगर आवश्यक पाया गया तथा आप यह मानेंगे कि जांच एक व्यक्ति से तभी करा सकूंगा यदि हमें जांच कराने के बाद उसकी आवश्यकता महसूस हुई । हमें उसमें दिक्कत नहीं है ।

SHRI C. RAMACHANDRAIAH: Sir, as per the information that we are getting, the financial institutions in this country...

SHRI JASWANT SINGH: Sir, I would like to correct my answer, because I did not refer to any paper. I gave him an incorrect figure. The hon. Member said that the total borrowings amounted to Rs. 11,000 odd crores, and I said that it amounted to Rs. 7,300 crores. Actually, the figure is Rs. 7,138 crores, not Rs. 7,300 crores. I do not want to persist with an inadvertent mistake that I made. I apologise to the House and to the hon. Member.

SHRI C. RAMACHANDRAIAH: Sir, on various occasions, before the Committees, heads of the financial institutions gave us information about the diversion of funds. They openly admitted that they could not ensure the end-use of funds, or, that the funds were being used for the purpose for which they were sanctioned. It is a very serious thing that has been brought to the notice of the Government. Unless a mechanism is developed to ensure that the funds are utilised for the purpose for which they are sanctioned, this kind of diversion of funds will continue. I don't know the veracity of the question, or, what the truth is. Can the Government create such a machinery? There are umpteen numbers of such diversions. I honestly say that it is not confined to the Essar Group only. Many big corporates in this country have been indulging in diversion of funds with impunity. I request the Government to order an inquiry or a special audit to go into the big corporates who have been indulging in diversion of funds. The Minister has said in his reply, "Information in respect of the constituents of the Public Financial Institutions cannot be divulged". What does he mean by constituents? Can the borrowers of the financial institutions be considered as the constituents of financial institutions? It has to be clarified.

SHRI JASWANT SINGH: Mr. Chairman, Sir, through you, I would answer the second part of his question first which relates to confidentiality. I would request the hon. Member to recognise that this is an aspect or a provision in our law which is not unique to India alone. Globally, there is a

recognition and as the Finance Minister I will endeavour to preserve it; both in regrd to individual privacy of an assessee or a citizen and in regard to the privacy of a borrower, I am committed to maintaining that privacy until the guilt is established. So far as the provisions of the Public Financial Institutions (Obligation As To Fidelity and Secrecy) Act, 1983 are concerned, I must make it quite clear that the details relating to individual constituents cannot be divulged. This is not an assertion of undue secrecy. This is an aspect — I would request the hon. Members to recognise— which is part of our own legal system which we have ourselves enacted and adopted. It is not anything that I am devising subjectively because it is not a matter of any convenience or inconvenience to me. So far as the question of proper utilisation of funds is concerned, the hon. Member has used a word 'diversion'.The Reserve Bank of India recognises broadly three grounds which go towards constituting an asset as a non-performing asset. The first is a wilful failure or refusal to repay the obligation of a debt. The second is diversion. There is the third aspect which has slipped from my mind.The Reserve Bank of India has specifically defined what constitutes a non-performing asset. As far as diversion or proper utilisation of funds is concerned, Mr. Chairman, Sir, these loans are extended by our domestic..... Sir, an ever helpful note has arrived from the Official Gallery. I must share it with the House. The three grounds are: (a) wilful default; capacity to honour payment but not paying it; (b) divert the funds deliberately and; (c) siphoning away of funds. Diversion and siphoning away of funds are two different functions.

SHRIC. RAMACHANDRAIAH: Sir, my question was totally different. I am not asking about the NPAs.

SHRI JASWANT SINQH: You had used a word 'diversion'.Therefore, I thought it necessary to explain about the proper utilisation for the purpose intended. Sir, our financial institutions have a system of monitoring the project for which loans have been extended by them. The tools of monitoring include scrutiny periodically of the returns submitted by the company; certification of the end-use of funds by the Chartered Accountant; periodical visits to the project sites Reports given by ominee Directors on the Board of the company, reports of concurrent audit and lenders' engineers, whenever they are appointed to the project." All the financial institutions of India have impeccably followed this system.

SHRI C. RAMACHANDRAIAH: Sir, this is a theoretical reply. More than Rs. 4,000 crores have gone into the stock market for speculation. This has been purely out of diversion of funds, and the Government machinery is totally ineffective; the banks don't have the mechanism. The Chiefs of the banks, while deposing before various Committees, have said that they don't have an effective mechanism to ensure the end-use of funds. Money has been diverted. But the Minister is giving a theoretical reply; this is not being implemented at all.

SHRI JASWANT SINGH: Sir, I would like to inform the hon. Member that if he has information about diversion of something like Rs. 4,000 crores on to the stock exchange, for purposes of speculation, then, I think, he should share it with the Finance Ministry, or with whichever institution he thinks appropriate, so that the matter can be looked into. But when this question of Shri Amar Singh was sent to my Ministry, we looked into all these aspects. So far as this group of companies is concerned, to the best of my knowledge, I have not come across diversion of the said sum of money for speculation purposes.

SHRI DIPANKAR MUKHERJEE: Sir, it doesn't relate to a specific company. Whatever be the theoretical reply he might give, the issue is diversion of funds. The only thing which should go from this question to these reformers, to those who are advisors to this Government or to those who are talking of labour reforms, is, "Please reform yourselves. Before you talk of labour reforms, you reform yourselves." Sir, we had discussed this issue when the former Advisor to the former Finance Minister resigned three years back on the issue of bail-out packages which were given by the financial institutions to various companies which included this company as well. Sir, because the hon. Minister is asking for certain details as regards diversion of funds, I would like to add here that the IDBI, which formed a special Sub-Committee to go into these bail-out packages for this company as well as three or four others—I have got the Sub-Committee's Report with me—has specifically pointed out diversion of funds and bail-out packages which were given to these people. I wish, Mr. Shourie was here; the projects had time and cost overrun. And the Report said that money had been given, in spite of the fact that the funds were diverted." There are specific conditions put before giving that fund; one of which is that within a stipulated period, this company as well as the others—I am not going to name them because I don't want to create any

kind of sensation—would bring the money back. They have diverted the money from the steel projects. I would like the hon. Finance Minister to go through this Report of the IDBI which was given in March, 1999, come back to the House and inform the House as to whether the funds which, in the opinion of the Sub-Committee, had been diverted from these steel projects, have been brought back. Is it 'Yes' or 'No'? If "No", the Minister should tell us as to within how much time this money will be brought back. Also, please don't take the advise of these people in respect of labour reforms *(Interruptions)* I can refer to the names of various companies. My friend has referred to one company. I can give four or five names, but I don't want to name them. But these are the people who are diverting the money. My question is whether, as per the Report of the IDBI, bail-out packages have been given to various companies including this one. One of the companies has diverted the funds for land purposes and building purposes. An amount of Rs. 99 crores has been diverted from the steel project by one of the companies; I am not naming it. Will the hon. Minister kindly go through the Sub-Committee's recommendations and the special terms and conditions and assure this House that the beneficiaries have brought back the money diverted from these steel projects? If not, when will they bring it back?

SHRI JASWANT SINGH: Sir, there are broadly two aspects of the hon. Member's supplementary.Without going into the dialectics of labour reforms, —it doesn't really pertain to this question.....

SHRI DIPANKAR MUKHERJEE: I delete it then...

SHRI JASWANT SINGH: It need not be deleted. I am just not going into the dialectics of labour reforms. So far as the IDBI loans to this group are concerned....

SHRI DIPANKAR MUKHERJEE: Including this one... Including this company. 'Bail-out package' is a very well-known Guruswamy term.

SHRI JASWANT SINGH: Sir, according to the information that I have, IDBI had classified the account of Essar Power Limited as a non-performing asset as on 31 st March, 2001 .This account has been upgraded by IDBI as 'performing' as on 31st March, 2002; on the basis of payments made by the company towards the clearance of dues, during 2001-02. Now, according to RBI's prudential norms, it is not necessary to classify

the accounts of the entire group as non-performing assets, when the acounts of one of the group companies turns into a non-performing asset.

SHRI DIPANKAR MUKHERJEE: Sir, this was not my question. I am, then, constrained to quote from the records. I may be put in jail for violating the Secrecy Act, etc. One of the terms and conditions which had been spelt out was that the companies will undertake—Rs. 92 crores were given to this company; I can speak about other companies also, regarding these bail-out packages—to recover the entire amount of loans and advances extended to such and such group companies, in a phased manner, with, at least, 50% by June, 1999, and the balance amount by December, 1999, along with a return of 15% per annum on investments. These were the monies. The time-limit was set by the IDBI, if I am not mistaken. The time-limit was set that, at least, 50% of the Rs. 119 crores in one case will be deposited in a 'No-Lien Account', and utilised with the prior approval of the IDBI—the amounts diverted to different companies. Within a certain period, this amount was supposed to be put back, and, for that, a time-limit was given. I would like you to go through it, Sir. I may be wrong. So, please go through these bail-out packages. It was a scandal which was discussed for two days. The same Guruswamy had mentioned—and you must be aware of this, Sir—that this company had been benefited and that company had been benefited. Have you forgotten all that, Sir? So, there were 14 companies who were the beneficiaries of these bail-out packages. In IDBI's case, four industries were there, including this one. There are certain terms and conditions for giving these bail-out packages. It was public money that was given to them. Please go through it and find out whether those terms and conditions have been fulfilled or not. We just want to know the reply is 'yes' or 'no'; nothing else.

SHRI JASWANT SINGH: Sir, that is fair enough. The hon. Member wants me to examine a previous transaction of one of the companies of this group...

SHRI DIPANKAR MUKHERJEE: No. All the bail-out package beneficiaries, including this one.

SHRI JASWANT SINGH: I am coming to it. The hon. Member has called it the 'bail-out package', whatever the official terminology for that may be. The question is whether there was any conditionality attached to

that by the lending institution and whether those conditions were fulfilled or not. I will certainly examine this, and whatever information I get, I will inform the hon. Member that this is the information that I have gathered in this process.

प्रो. रामगोपाल यादव : सभापति महोदय, इस वक्त देश में स्थिति ऐसी हैं कि सूखे के बावजूद जिन लोगों पर गांवों में सौ रुपए, दो सौ रुपए भी कर्ज़ है, वसूली के लिए अगर लोग जाते हैं तो वे कर्जदार लोग पकड़ लिए जाते हैं और 14-14 दिन तक जेल में भेज दिए जाते हैं। वसूली करने वालों को देखते ही गांव के लोग घरों से भाग जाते हैं, छिपते फिरते हैं। इस परिप्रेक्ष्य में मेरे प्रश्न का ''अ" भाग यह है कि इस कंपनी ने जो 7138 करोड़ रुपया लिया है जैसा माननीय मंत्री जी ने बताया, क्या वित्तीय संस्थाओं को इस लिए हुए पैसे में से कभी कुछ पैसा वापस दिया गया? अगर दिया गया तो कितना दिया गया?

मेरे प्रश्न का "ब" भाग यह है कि "सी" पार्ट में आपने जो उत्तर दिया है "Decision are taken by the concerned financial institutions, based on their own assessment and commercial judgment of proposals", क्या इस आधार पर वित्तीय संस्थाओं से हजारों करोड़ रुपए की लूट की इजाजत दी जा सकती है? क्या फैसला वही करेंगी? सीक्रेसी के नाम पर हम कुछ नहीं जान सकते, हमें बताया जा सकता है, क्या इसकी छूट दी जा सकती है? (सी) क्रिसिल जैसी बहुत ही प्रतिष्ठित रेटिंग एजेंसी ने इस समूह कॊ अगर डिफाल्टर की श्रेणी में डाला है, इसके बावजूद क्या इस कंपनी के मालिक, प्रधान मंत्री की इकोनोमिक एडवाइजरी कमेटी के मैम्बर हैं? यह हैं तो कब तक रहेंगे और कब तक प्रधान मंत्री जी इनसे राय लेते रहेंगे, देश को लूटने के लिए?

श्री जसवंत सिंह. माननीय सदस्य के प्रश्न के तीन पहलू हैं। अंतिम यह हैं कि क्या इस कम्पनी के कोई अधिकारी जो माननीय प्रधान मंत्री जी की एडवाइजरी काउंसिल है, ट्रेड एंड इंडस्ट्री की एडवाजरी काउंसिल है, उसके सदस्य हैं,जी हां, सदस्य हैं। कब तक रहेंगे, यह मैं नहीं कह सकता । परन्तु माननीय प्रधान मंत्री जी को स्वयं सारी बातों की जानकारी लगी हैं, वे इस पर विचार कर रहे हैं । दूसरा माननीय सदस्य का यह कहना था कि सीक्रेसी क्लाज हम पर कब तक लागू होगा? क्योंकि इससे हजारों करोड़ रुपए उधार ले लिए जाते हैं और फिर हम उसका कोई सवाल जवाब भी नहीं करते । माननीय सदस्य को मैं बताना चाहता हूं कि यह कानून आप ही लोगों का है, हम सबने मिलकर बनाया है, 83 का कानून है । इसमें कोई परिवर्तन लाना चाहें तो जरुर लाइए । जैसे ही परिवर्तन आता है, मैं उस कानून से बंधा हूं, उस परिवर्तन के अनुसार, जो आपको जानकारी चाहिए होगी, वह जानकारी हम देंगे। उधार लेकर के पैसा नहीं चुकाना, यह बहुत बड़ी समस्या है। आज बैंकों और फाइनेंसियल इंस्टीट्यूशन्स के जितने नान प्राफोफिंग एस्सेट्स बनाए गए हैं, ये हमको स्वीकार नहीं हैं । इसलिए यह मामला नहीं चल सकता । इसीलिए सरकार ने एक आर्डिनेन्स इस दौरान जारी किया था ।

प्रो. रामगोपाल यादव : क्या आप इस तरह के कानून में संशोधन की आवश्यकता महसूस करते हैं? यदि महसूस करते हैं तो आप ही इनिसिएट करेंगे, बिल लाएंगे, हम तो लाएंगे नहीं।

श्री जसवंत सिंह: मैं आपको बताऊंगा कि मैं सोचता हूं कि जहां तक किसी नागरिक या किसी उधार लेने वाले की प्राइवेसी का सवाल है, मैं अभी भी इस पक्ष का हूं कि नागरिक की प्राइवेसी आवश्यक है, बनी रहनी चाहिए। मैं माननीय सदस्य से निवेदन करुंगा कि यह आर्डिनेंस अगर कानून में परिवर्तित हो जाता है, अभी लोक सभा के पास है, हमने उसको पेश किया है। कल वहां बहस होनी है, इसी हप्ते शायद बहस हो जाएगी। यह मेरा विश्वास है कि जैसे ही यह आर्डिनेंस कानून बन जाता है ,बहुत सारे सरकार के पास या लैडिंग एजेंसी के पास ऐसे अधिकार, मैं औजार शब्द जानबूझकर इस्तेमाल नहीं करना चाहता, परन्तु निश्चितरुप से अधिकार आ जाएंगे। जिससे सरकार की एक प्रकार से जो अव्यवस्था चल रही है, यह एक अनुमान है कि पूरी नॉन प्रफोर्मिग एस्सेट्स का 83000 करोड़, एक लूट है। यह उधार खाता नहीं है, यह इस प्रकार नहीं चल सकता। जो उधार लेता है, उसको चुकाना भी पड़ेगा। यदि कोई कठिनाई है तो आप मानकर चलिए कि हम कठिनाई के बारे में पूर्णतया सजग हैं। सरकार उसकी और ठीक ढंग से देखेगी। सरकार की यह तनिक भी इच्छा नहीं है कि किसी को बिना वजह सताया जाए। परन्तु ऐसा नहीं हो कि सालों साल उधार चला जाए और लौटाया नहीं जाए। आज एक प्रकार का 83,000 करोड़ का, नॉन प्राफोमिंग एस्सेट्स का, कुल बन जाए, यह स्वीकार नहीं है। मैं निवेदन करुंगा कि माननीय सदस्य निश्चित रुप से इसकी गंभीरता को समझते हैं, यह जब हो जाएगा तो अभी जो आपको सीक्रेसी क्लाज वगैरह के लिए, अड़चन महसूस होती है,यह सब नहीं रहेगी, ऐसा मेरा विश्वास है।

SHRIASWANI KUMAR:The hon. Minister, in his reply, has stated two things with respect to the secrecy of the individual assessee and also with respect to the secrecy of the alleged defaulters. If I understood the hon. Minister right, the Minister has stated that there is a law in this country, which prevents the disclosure of certain information about the alleged defaulters until proved to be guilty. In your reply, you have annexed a list of defaulters, against whom suits have been filed. My understanding, as a lawyer is, mere filing of a suit doesn't amount to conviction. So, if you can disclose the names of the people against whom you are going in for recovery, I think, it is too late in the day to talk of secrecy, particularly, when the jurisprudence of the country is now firmly established in the people's right to know. Why I am invoking this is because, when we talk of the use or misuse of public funds, we are in the realm of public law, and, therefore, the people of this country have a

right to know how the funds of the financial institutions have been used. Will the hon. Minister consider being a little more transparent in divulging information, which is in the public interest? I can quite understand the Minister's finding; if you are convinced that there are no diversions; we can understand that aspect as another matter. But, today, at this time, to speak of confidentiality is not correct, because, as far as individual assessees are concerned, the moment a return is filed, it becomes a public document. Will the hon. Minister kindly clarify what the situation is?

SHRI JASWANT SINGH : This is a very fine dividing line, a thin line. I am not asserting in an exaggerated or excessive secrecy. If a fund is diverted, the Finance Minister has no independent apparatus or mechanism to go into all the lending that take place, annually, by all the various financial institutions, to establish whether the fund has been diverted or not diverted. That is why each of the financial institutions has its own methodology and mechanism for determining. Hon. Ramachandraiah had asked whether we have a method by which we go and check whether the fund is actually being used for the intended purpose, for the purpose for which it was borrowed. Yes; there is a mechanism. On what does the Finance Ministry rely? The Finance Ministry relies, after all, on the report that comes to the Finance Ministry from the financial institution, to either say, "No, this is a non-performing asset; he, or the particular company, has not fulfilled the obligation for this fund. Therefore, it is a non-performing asset."

As soon as it becomes a non-performing asset, the figure is divulged. Once this is known, it is no longer a matter that is a secret. I don't know what additional information is wanted by the hon. Member or what additional information I can provide.

SHRI ASHWANI KUMAR: The question was not with reference to the source of information. The question was: Is it not too late in the day to invoke the secrecy argument when we have, in this country, a constitutionally-mandated right to know when we are in the public domain? And, we are in the domain of public law and public morality when it comes to the use or the misuse of public funds. Whether the institutions give that information or whether the hon. Minister gives that information

is not my concern. My concern is, if there is a *prima facie* case for information, don't the people of this country have a right to know, whether from the institution or from the Ministry, as to what happened to the public fund?

SHRI JASWANT SINGH: I recognise the fine point that has been made.That is, after all, balancing between the obligation under an Act of Parliament and confidentiality. The hon. Member is asserting his right of information. I agree, there is a right of information. This is a fine-balancing act. Do I have an answer that I know exactly how to balance it? No, Sir, I don't have the answer. I don't know how I can reconcile the requirement of confidentiality with the right that the hon. Member is asserting, the right of information. I recognise the right of information, but I am also bound by the Act under which I am acting. It is not a matter of my subjective satisfaction. In the discharge of the responsibility that I have, I have to go by the rules and laws that we ourselves have made in this regard. I therefore, do not have a perfect answer to this particular context.

SHRI PREM CHAND GUPTA: Mr. Chairman, Sir, there is no doubt that growing NPAs are a serious problem for our financial system today because from Rs.41,000 crores in 1993 they have gone up to Rs.81,000 crores in 2002. It is a matter of concern for all of us. Sir, there are two types of NPAs, and there are two types of defaulters which the Finance Minister would appreciate. One type of defaulters are those who are wilful defaulters, and the other type of defaulters are those who are the victims of circumstance. For example, an industry is set up with good intention but the market demand goes down or there is a problem like that of September 11, or, what happened two years ago. Therefore, sometimes the industry is helpless. I would agree with the hon. Finance Minister that some stringent action should be taken against the wilful defaulters. As far as the Indian industry is concerned, we are passing throught the worst of times. Any action taken in haste can be disastrous for the Indian industry. Sir, diversion of funds, restructuring, financial assistance or loans to the industrial sector is a normal phenomenon the world over.This is not the only one company where the restructuring has been done. There are hundreds of cases, which the Finance Minister would appreciate, where restructuring has been done. Sir in this particular case, there is a problem. There is a corporate war, there is a media war. there are two types of operators out of Bombay in media. We examined

one of them in a Committee/ A lady's husband was drawing Rs.2 crores per year as consultancy fee from 40 companies. Even then she was writing against the industrial houses. So, we should not allow this august House to become a centre of discussion on this account. Sir, regarding diversion of funds ...*(Interruptions)*...

AN HON. MEMBER: What is the question?...*(Interruptions)*...

SHRI PREM CHAND GUPTA: I understand what my question is...*{Interruptions)*... Mr. Chairman, Sir ...*(Interruptions)*...

MR. CHAIRMAN: What is your *ques\\on?...(lnterruptions)*...

SHRI PREM CHAND GUPTA: Sir, my first question is, the then Minister of Law, Justice and Company Affairs and Shipping, Shri Arun Jaitley, *vide* his letter dated the 16th June, 2001 had confirmed that the allegations made against this company had been checked, looked into and no irregularities had been found. I would like the hon. Finance Minister to confirm whether it is correct or not. If it is correct, then this industrial system should not be destroyed, because any aspersion in this House goes down the level and the company suffers. This company is already suffering because of this problem and their refinery project is held up for the last two years. Sir, Rs.6000 crores have been invested and the company is becoming sick because of non-grant of further financial assistance. Mr. Chairman, there is another letter. The part (b) of my question that I would like to ask the hon. Finance Minister is this, and I would like the hon. Finance Minister to confirm whether [r]ome of the issues of this report which appeared in *The Asian Age* had been referred to the CVC and the CVC had also cleared that there were no irregularities. I would request the hon. Minister to respond to these questions.

SHRI JASWANT SINGH: Sir, I would endeavour to answer all the queries that the hon. Member has raised. But one request that I have to make to you in advance is that while endeavouring this, I will not comment on what one or another newspaper reports or does not report. It is not my function to comment on newspaper reports. ...*{Interruptions)*...

SHRI SANJAY NIRUPAM.The question is based on a newspaper report ...*{Interruptions)*...

SHRIJASWANT SINGH: I know because is based on a newspaper report. ...*(Interruptions)*... Having acknowledged that, thereafter it is not for me to go into an analysis of what the newspapers say or do not say. I do not think that is my function in this House. Secondly, Sir, so far as favouring one or another is concerned, I would like to assure the hon. Member that the oath that was administered to me was 'without fear or favour.'

SHRI PREM CHAND GUPTA: I appreciate that.

SHRI JASWANT SINGH: I fear nobody. I favour no one. The Minister/ is not a part of any corporate or any other kind of war. I have no animosity, no functional animosity. As an individual, I might have my viewpoints. But my viewpoints do not go into the arena of my functional responsibility. Do I, the hon. Member wants to know, stand by what my distinguished colleague and friend, Shri Arun Jaitley, as the hon. Minister of Law, Justice and Company Affairs, in writing told him? Yes, I stand by it fully.

SHRI PREM CHAND GUPTA: Sir, the letter was written by him.

SHRI JASWANT SINGH: I know that. That is what I am-saying. How cannot I stand by what my distinguished colleague, as Minister, said? I do stand by it. And, you referred to some other aspect of newspaper that I cannot.

There was another aspect to your question about wilful default/ inadvertent default. Let me share with you what is the definition of the 'Wilful Default' given by the R.B.I. Again, it is not a question of subjective satisfaction to the Minister or the Ministry of Finance. What does the R.B.I, say? It is a Circular of May, 2002, which defined 'Wilful Default.' It says, "A Wilful Default would be deemed to have occurred if any of the following events is noted:

> The unit has defaulted in meeting its payment/repayment obligations to the lender even when it has a capacity to honour the said obligation;
>
> The unit has defaulted in meeting its payment/repayment obligation to the lender and has not utilised the finances from the lender for the specific purpose for which the finance was availed but has diverted funds for other purposes; and

The unit has defaulted in meeting the payment/repayment obligation to the lender and has siphoned of the funds so that the funds have not been utilised for the specific purpose for which finance was availed of nor are the funds available with the unit in the form of other assets."

I recognise that. That is what the Non-Performing Assets mean. This is what has been defined as wilful non-payment. There are circumstances and there do arise occasions on account of fluctuating business situation. For example, steel industry, particularly, goes through a difficult period. The Government cannot work on the basis of wanting to destroy the steel industry. I have to recognise the difficulties and I have to , as best as I can, make a distinction between wilful default and inadvertent default. 71

SHRI PREM CHAND GUPTA: There are a number of instances. ...*(Interruptions)*... Because of the debate in the House, we should not allow this august House to become a playing field for settling personal scores or corporate wars or media wars.

MR. CHAIRMAN: We have already spent forty-five minutes on this question. ...*(Interruptions)*...*We* can have a separate discussion on this ...*(Interruptions)*.. .You give a separate notice for this ...*(Interruptions)*..*Ihere* are twenty more Members who would like to put supplementaries. Basically, the question has already taken forty-five minutes.

श्री रमा शंकर कौशिक: श्रीमन् एक मिनट ।

श्री सभापति: नहीं , एक का होगा तो फिर मुझे सब को अवसर देना होगा।

श्री रमा शंकर कौशिक: श्रीमन्,मैंने नाम दिया है।

श्री सभापति: आपका भी है, औरों का भी है । संजय निरुपम का भी है और सब से पहले उसने दिया था । बात यह है कि....(**व्यवधान**)... नहीं ।

Promotion of bio-tech industry

*122. DR. ALLADI P. RAJKUMAR: Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) the steps taken by Government to promote bio-tech industry in the country;